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## FISCAL IMPACT REPORT

SPONSOR Papen ORIGINAL DATE 1/19/19 LAST UPDATED 3/01/19 HB \_\_\_\_\_

SHORT TITLE Public Property Disposition Act SB 154/aSRC/aSPAC/aSFI#1

ANALYST Jorgensen

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	NFI	NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

General Services Department (GSD)

State Land Office (SLO)

Department of Public Safety (DPS)

Public Schools Facility Authority (PSFA)

### SUMMARY

#### Synopsis of SFI#1 Amendment

The Senate Floor Amendment #1 to Senate Bill 154 adds language exempting vehicle public auctions from provisions of the Public Property Disposition Act.

#### Synopsis of SRC Amendment

The Senate Public Affairs Committee Amendment to Senate Bill 154 removes museums from a list of agencies exempted from provisions of the Public Property Disposition Act but includes additional language for the Department of Cultural Affairs exempting “accessioned collections items, non-accessioned items, or livestock” from the act. The amendment also clarifies that state agencies shall not change ownership of property without legislative approval.

#### Synopsis of SRC Amendment

The Senate Rules Committee Amendment to Senate Bill 154 includes language stating that, with regard to disposal of property valued over \$200 thousand, the Legislature shall be provided with any conditional agreement between the state agency and the buyer or trading partner specifying

how the sale, trade, or donation is to be conducted, to whom the property is to be sold, traded, or donated and the purchase price, value of the trade, or market value of the donation.

Synopsis of Original Bill

Senate Bill 154 repeal and replaces Article 6, Chapter 13 of the NMSA 1978 dealing with disposition of public property regulating the sale, trade, lease, exchange or donation of tangible personal property or real property by a state agency, local public body, school district or charter school. The bill contains the following provisions:

With regard to tangible personal property worth \$10 thousand or less:

- Disposition requires a special finding that the property has a current resale value of \$10 thousand or less and is surplus, obsolete, worn out or unusable;
- Must be overseen by a committee of three or more officials, and may be conditional upon offer for sale or donation to another state or local government, Indian tribe, or state educational institution;
- Requires 30 days prior public notice copied to the state auditor and DFA, with limited options for disposition;
- Executive agencies must give right of first refusal to the surplus property bureau of the transportation services division of the general services department;
- Proceeds may be retained by the disposing agency except that proceeds from DOT property go to the road fund, and of the state land office (SLO) to the state lands maintenance fund;
- If unable to dispose of the property as required, or if it is hazardous, it must be ordered destroyed;
- May not be donated to an elected or appointed official, employee or their relatives except by bid at a public auction.

With regard to tangible personal property worth more than \$10 thousand:

- Requires a finding that the property is surplus and has a current retail value of over \$10 thousand;
- Requires consent of “state oversight agency” (as defined), which may require it first to be offered for sale or donation to another government, state educational institution or tribe;
- Proceeds handled as for property worth \$10 thousand for less.

With regard to real property:

- Property worth up to \$60 thousand and not needed to fulfill the agency mission, may be sold, traded or in some cases donated to another government, state educational institution, municipality, or tribe or a tax-exempt organization;
- Requires statement of reasons the property is no longer needed, with specified factual findings;
- May be sold through the bureau, by negotiated sale without appraisal to another government, state educational institution, municipality, or tribe, or through the central purchasing office by bid or public auction;
- May be donated to another government, educational institution, tribe, or municipality;
- Donation must be reviewed by capitol buildings planning committee;
- Property worth between \$60 thousand and \$200 thousand, must be reviewed by the state oversight agency, and if over \$200,00, by the state oversight agency, capitol buildings

planning committee in some cases, state board of finance; and ratification by the Legislature in certain cases;

- Property worth more than \$200 thousand and proposed for sale, trade or donation by a state agency, requires ratification by the Legislature and in some cases the capitol buildings planning commission;
- If the property belongs to an agency by virtue of legislative action, it may not be disposed of without legislative approval;
- If the property is located within the boundaries of a community land grant, the land grant board has a right of first refusal, except for state trust land;

With regard to leasing:

- State agency lease of real property for a period of 5-25 years must be approved by the state oversight agency, reviewed by the capitol buildings planning committee if located within the greater metropolitan areas of Santa Fe, Las Cruces or Albuquerque, and approved by the state board of finance;
- Lease of real property for 25 years or more or consideration more than \$100 thousand must be ratified by the Legislature by joint resolution based on satisfaction of specified preconditions.

Exemptions from the Act would include:

- (1) SLO for the sale, trade or lease of public lands under the commissioner of public lands' jurisdiction;
- (2) The New Mexico state police division of the department of public safety for the disposition of property received through forfeitures;
- (3) The economic development department for the disposition of real property acquired pursuant to the Statewide Economic Development Finance Act;
- (4) The cultural affairs department or any of its museums for the disposition of tangible personal property acquired through abandonment procedures pursuant to the Abandoned Cultural Properties Act;
- (5) The department of transportation for the disposition of public property approved by the state transportation commission, except that the department shall notify the state auditor and the department of finance and administration of the disposition;
- (6) State educational institutions, except that a state educational institution may donate tangible personal or real property to a governmental entity; and
- (7) Municipalities, except that a municipality may donate tangible personal or real property to a governmental entity.

## **FISCAL IMPLICATIONS**

None of the responding agencies noted a fiscal impact of implementation of SB154.

## **ADMINISTRATIVE IMPLICATIONS**

SLO reports that by raising the threshold value for requiring certain kinds of review and approval for lands that could be conveyed in exchange for state trust lands, the bill might slightly reduce the administrative burden of such transactions that might occur in the future. The SLO does not consider these implications significant to the operations of the SLO.

GSD notes that enacting SB154 would streamline the disposal process, adding clarity to what the exact requirements to a governmental agency are. However, SB154 will require more time for dispositions due to the 30 day public notification requirement.

#### **TECHNICAL ISSUES**

PSFA states the proposed dollar thresholds in SB154 conflict with the dollar thresholds under the Office of the State Auditor (OSA) Rule for disposition of assets and The Audit Act Section 12-6-10 NMSA 1978 for capitalization of assets. Current threshold is \$5 thousand. For consideration, OSA may change threshold to \$10 thousand.

#### **OTHER SUBSTANTIVE ISSUES**

DPS notes that the bill contains new language proposed identifying the disposition of property received through forfeiture. While this language is welcomed, the DPS wants to ensure that the New Mexico State Police Division continues to have the ability to auction property received through forfeiture, an ability that was explicitly allowed in the repealed sections of law.

CJ/sb